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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of the Pay)
Telephone Reclassification)
and Compensation Provisions)
of the Telecommunications)
Act of 1996)

CC Docket No. 96-128

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COMMENTS OF THE
AIRPORTS COUNCIL INTERNATIONAL - NORTH AMERICA

Introduction and Summary

The traveling public relies on airports to provide adequate numbers of pay telephones for their business and personal communications needs. Airports, in turn, must receive sufficient commission income to cover the cost of placing payphones and to meet the airports' statutory obligations to operate on an economically sound basis. These interests are best served by rules that preserve the right of premises owners to select the providers of payphones and associated telecommunications services, and that establish fair levels of per-call compensation for 0+, 800, debit card and all other calls placed from pay telephones. Those concerns also require that existing contracts between premises owners and service providers not be adversely affected by enactment of the Commission's new rules.

Airports Council International - North America
July 1, 1996

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STATEMENT OF INTEREST

The Airports Council International - North America (ACI-NA) represents the local, regional and state governing bodies that own and operate the principal airports served by scheduled air carriers in the United States. The U.S. airport members of ACI-NA enplane more than 90 percent of the total domestic, and virtually all international, scheduled airline passenger and cargo traffic in the United States.

As public proprietors of transportation facilities, airport operators provide a broad range of services to passengers, shippers, airlines, businesses and government agencies engaged in air transportation activities. One of the major services made available to the traveling public is pay telephones. Airports are among the largest groups of providers of public payphone service in the nation. Based on surveys of ACI-NA members in 1987 and 1992, ACI-NA estimates that over 30,000 payphones are located at airports in the United States. Further, payphones located at U.S. commercial service airports are among the most heavily used payphones in the industry.

Airport management, which is made up almost entirely of local government representatives, is responsible for ensuring that payphones are widely available for the benefit of the more than 500 million passengers that use ACI-NA member airports. ACI-NA therefore has a direct and substantial interest in the outcome of this proceeding.

The public interest is served by presubscription arrangements that maximize availability of pay telephones and fairly compensate the airports. Adequate

compensation ensures that the necessary number of pay telephones will be provided at airports, and permits airports to meet their statutory obligation, under the federal Airport Improvement Program, to “maintain a schedule of charges for use of facilities and services at the airport . . . that will make the airport as self-sustaining as possible under the circumstances existing at the airport . . .”¹ Virtually all U.S. commercial service airports accept federal grants and therefore must comply with this requirement. The fact that airports must be self-sustaining also makes it possible for airports to maximize public access to needed services such as payphones and to provide needed signage and space in public areas for the convenience of the traveling public. Airport operators, therefore, must be concerned with preserving all existing sources of revenue, including revenue from presubscription arrangements. As explained more fully below, these concerns are best met by rules that maximize the flexibility of premises owners in negotiating presubscription arrangements, and that provide adequate compensation for all calls placed through payphone facilities.

DISCUSSION

I. The Rules Should Preserve The Rights Of Location Providers.

As the Notice of Proposed Rulemaking recognizes, the legislative history of the Telecommunications Act of 1996 confirms the right of location providers to

1/ 49 U.S.C. sec. 47107(a)(13).

choose the entities that will provide payphone services from their premises.² This right to choose extends both to the providers of payphones, and to the providers of interLATA and other competitive telecommunications services offered through those payphones. Any rules adopted by this Commission must be consistent with this prerogative.

The location provider's prerogative extends to the preservation of the choices location providers already have made. Accordingly, ACI-NA agrees with the Commission's tentative conclusion that Section 276(b)(3) of the Act "grandfathers all contracts in existence as of February 8, 1996 . . ."³ ACI-NA also recommends that the Commission adopt, for this purpose, the broadest possible definition of "contract," including letters of authorization and term extensions, so as not to disadvantage location providers, such as airports, that may rely on existing presubscription agreements for a necessary income stream.

Similarly, while ACI-NA agrees with the tentative conclusion that all payphone service providers should be authorized to negotiate with location providers concerning the choice of intraLATA carrier,⁴ the Commission also should make it clear that payphone service providers may not contract with any carrier over the objection of the location provider. A contrary rule would clearly violate the intent of Congress.

2/ Notice of Proposed Rulemaking ("NPRM") at para. 68; Joint Explanatory Statement of the Committee of Conference at 44. ("[T]he location provider has the ultimate decision-making authority in determining interLATA services in connection with the choice of payphone providers." *Id.*)

3/ NPRM at para. 73.

4/ NPRM at para. 74.

Finally, ACI-NA agrees that Bell operating companies (BOCs) should be entitled to negotiate with location providers concerning the choice of presubscribed carrier.⁵ Again, however, the Commission should make it clear that the location provider retains the ultimate decision-making authority concerning the choice of any carrier presubscribed to a payphone placed at the location provider's premises.

II. The Rules Should Permit Fair Compensation For All Calls Placed From Payphones.

Airports cannot meet the communications needs of the public, or the statutory goal of financial self-sufficiency, unless commissions earned from payphones are sufficient to recover the associated costs. Unfortunately, commission income has come under substantial pressure in recent years as calls placed through access codes and 800 numbers have increased. To the extent so-called "dial-around" calls have outgrown the traffic assumptions on which the present, per-line compensation method is based, and to the extent callers make more frequent use of 800 numbers that generate no compensation for payphone providers under existing rules, the ability of payphone providers and operator service providers to pay commissions at a compensatory level is compromised.

For this reason, ACI-NA urges the Commission to permit compensation, on a per-call basis, for all calls placed from payphones. The rules should allow compensation for all 0+, 800 and debit card calls, and should establish a level of

5/ NPRM at para. 71

compensation sufficient to cover all costs incurred to provide payphones and the associated telecommunications services.

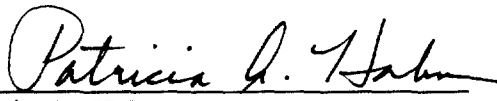
Conclusion

ACI-NA believes that the payphone provisions of the Telecommunications Act of 1996 will lead to increased competition and improved service for all users of payphones. If the rules implementing those provisions preserve the ability of premises owners to choose the vendors who will offer payphone service at their premises, and allow for fair compensation for telephone traffic originated at those payphones, both airports and their users will benefit.

Respectfully submitted,

**AIRPORTS COUNCIL INTERNATIONAL
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